

Remarks

In light of the Office Action of August 20, 2004 and for reasons stated below, the subject application has been amended as indicated.

Claims 32, 57-61, 77 and 78 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,353,788 to Miles in light of U.S. Patent No. 6,029,665 to Berthon-Jones. The applicant respectfully submits that, as amended, the above claims are no longer made obvious by the cited prior art references. The cited references, separately or in combination, do not disclose or teach of a headgear having EEG sensors thereon which are positioned to detect EEG signals.

Miles discloses a CPAP system wherein the sensors are directly connected to a PMA device (12) and not to the nasal mask (3) nor the headgear (not numbered) which was disclosed. While the specification does state:

“Some of sensors 21 may be mounted inside or connected to the mask.” Col. 4, Lines 44-45.

Neither Miles nor Berthon-Jones specifically teaches of connecting the sensors to the headgear which secures the mask to the face of the patient nor do they provide an example of such an application. As shown and explained in the above-captioned application, the headgear provides excellent location of the EEG sensors without the need for individually positioning each sensor before each application. This advantage is not disclosed or taught in Miles. As such, there is no motivation in the cited references for the headgear of the above-captioned application. We respectfully submit that the above-

captioned application is not obvious under 35 USC § 103(a) in light Miles and Berthon-Jones.

Claims 62-66, 68, 69-71, and 73-76 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,353,788 to Miles. As amended, independent claims 62 and 73 now include the limitation of having a headgear with EEG sensors thereon. As stated above, Miles does not disclose or teach of such a headgear and so, claims 62 and 73 and the rest of the above claims (all of which depend from claim 62 and 73) are not obvious under 35 USC § 103(a) in light of Miles.

The Office Action objected to the Abstract of the above-captioned application. Applicant has deleted the previous abstract and has replaced it with a more concise version.

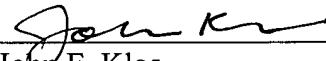
The Office Action also objected to claims 74 and 75 as having improper antecedent basis for the term “the sensors.” As noted above, the term have been amended to “the sensor” in order to provide proper antecedent basis.

Conclusion

Applicant respectfully submits that, as amended, the subject application is in condition for allowance, and allowance thereof is kindly requested. Should the Examiner wish to discuss these claims further, or should an Examiner's Amendment be needed in order for the claims to proceed to allowance, the Examiner is invited to contact the undersigned attorney at the Examiner's earliest convenience.

Respectfully submitted,
Compumedics Limited,
by its Attorneys

Dated: October 27, 2004


John F. Klos
Registration No. 37,162
Aleya R. Champlin
Registration No. 36,251
Fulbright & Jaworski L.L.P.
80 South Eighth Street, Suite 2100
Minneapolis, MN 55402-2112
Telephone: (612) 321-2800